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8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA
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11 LANON A. ATCHISON,) Case No. CV 13-9063-AG (RNB)
12 Plaintiff,)
13 vs.) ORDER TO SHOW CAUSE
14 CAROLYN W. COLVIN, Acting)
Commissioner of Social Security,)
15 Defendant.)
16

17 It appears from the face of the Complaint that was lodged for filing herein on
18 December 9, 2013 that plaintiff is seeking review of an unfavorable Appeals Council
19 decision that was issued on August 29, 2013.

20 Section 205(g) of the Social Security Act affords a claimant “sixty days” from
21 “mailing” of notice of the Commissioner’s final decision or “such further time as the
22 Commissioner of Social Security may allow” in which to commence a civil action.
23 42 U.S.C. § 405(g). “[T]he Congressional purpose, plainly evidenced in Section
24 205(g), [was] to impose a 60-day limitation upon judicial review of the Secretary’s¹
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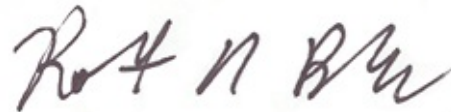
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27 ¹ Pursuant to P.L. No. 103-296, the Social Security Independence and
28 Improvements Act of 1994, the function of the Secretary of Health and Human
(continued...)

1 final decision on the initial claim for benefits.” Califano v. Sanders, 430 U.S. 99,
 2 108, 97 S. Ct. 980, 51 L. Ed. 2d 192 (1977). “In addition to it serving its customary
 3 purpose, the statute of limitations embodied in § 405(g) is a mechanism by which
 4 Congress was able to move cases to speedy resolution in a bureaucracy that processes
 5 millions of claims annually.” Bowen v. City of New York, 476 U.S. 467, 481, 106
 6 S. Ct. 2022, 90 L. Ed. 2d 462 (1986). The Ninth Circuit repeatedly has upheld the 60-
 7 day statute of limitations, in affirming the dismissal of claims which were not timely
 8 filed. See, e.g., Banta v. Sullivan, 925 F.2d 343 (9th Cir. 1991); Matlock v. Sullivan,
 9 908 F.2d 492 (9th Cir. 1990); Peterson v. Califano, 631 F.2d 628 (9th Cir. 1980).

10 Here, if measured from August 29, 2013, when the Complaint alleges that the
 11 Appeals Council decision was issued, plaintiff’s federal filing deadline (including the
 12 5 additional days for service by mail) was November 2, 2013 (which being a
 13 Saturday, resulted in a further extension of the filing deadline to November 4, 2013).
 14 The Complaint does not allege that the Appeals Council extended plaintiff’s time in
 15 which to commence a civil action. Accordingly, it appears from the face of the
 16 Complaint that, when it was lodged for filing herein on December 9, 2013, the
 17 limitations period already had run.

18 Accordingly, on or before **January 10, 2014**, plaintiff is ORDERED to show
 19 good cause in writing, if any exists, why the Court should not recommend that this
 20 action be dismissed for untimeliness.

21
 22 DATED: December 17, 2013



24 **ROBERT N. BLOCK**
 25 UNITED STATES MAGISTRATE JUDGE

26
 27 ¹(...continued)
 28 Services was transferred to the Commissioner of Social Security effective March 31,
 1995.